

### III. REMARKS

The Examiner objected to claims 17-26 as being drawn to a non-elected invention and stated that the reply was non responsive. Claims 17 -26 have been withdrawn for non-election. It is requested that the Examiner reconsider this.

Claims 1-6 have been cancelled and the amended claims and new claims 27 -31 do not contain the objected terminology. Therefore it is requested that the 37 CFR 1.75(d) (1) objections be withdrawn.

Claims 12-16 were objected to under 37 CFR 1.75(c) as being in improper form. Claim 12 has been cancelled and claims 13-16 have been amended so that none of the dependent claims 13-16 are dependent on multiple dependent claims and therefore it is requested that the 37 CFR 1.75(c) objections be withdrawn and that these claims be examined.

Claims 1-6 and claims 1-11 were rejected under 35 U.S.C. 112, referring to claims 1 and 6. Claims 1-6 have been cancelled, and claims 7-11 have been amended so that they clearly define subject matter disclosed in the specification and drawings and applicant has supplied as an aid to understanding the claims the numerals which are in the drawings that exemplify the invention as claimed. these numerals are only for an understanding of the invention and are not intended to limit the claims to the specific structure of the drawings. Therefore it is requested that the 35 U.S.C. 112 rejection be withdrawn.

Claim 11 was indicated as being allowable if written in independent form. Claim 27 is original claim 11 rewritten as an independent claim and therefore should be allowable. This is also true of dependent claims 28-31. An early Notice of Allowance of these claims is requested

Claims 7 - 10 were rejected under 35 U.S.C. 102(b) as being anticipated by Revsbach et al WO 97/46853. Revsbach et al does not show or disclose a detection cavity and a reservoir being mutually interspaced elongated cavities. Rather Revsbach et al has a non-permeable separate reservoir 2 in container 10 or a self contained reservoir (Fig. 2). Revsbach et al does not show or disclose that the wall portion of their reservoir is permeable nor that the wall portion of his detection container is

permeable.

Revsbach et al does not show or disclose that their reservoir and the detection container are mutually interspaced, elongated cavities i.e. having a common wall, and that the reservoir has a tracer-permeable reservoir wall portion and the detection cavity has a tracer-permeable detection cavity wall portion.

Resvbach et al, WO 97/46853, discloses a sensor, in which a tracer-permeable membrane or insert (4) is placed in the mouth (3) of a tracer reservoir confined by a container (2a), whereby the said insert forms a permeable wall portion of the reservoir. Further a sensoric tip (6) of a transducer (1) is placed inside the permeable insert (4). According to page 9, lines 15-17, the transducer may also be placed outside the insert (4).

In relation to the transducer and the sensoric tip thereof a number of examples of possible transducers are mentioned on page 6, lines 10-13. According to page 9, lines 10-11, the diameter of the tip of the transducer is 2  $\mu\text{m}$ . From this information combined with the specification as a whole, the transducer (1) detects or measures the tracer concentration or pressure in a single point or in an extremely limited space. This would also apply, if the transducer is provided with an inner cavity sealed by the permeable insert (4), when the tip (6) is inserted therein or by a separate membrane, when the tip (6) is placed outside of the insert (4). Further in the mentioned instances the insert (4) or the separate membrane would form an end wall of the transducer cavity.

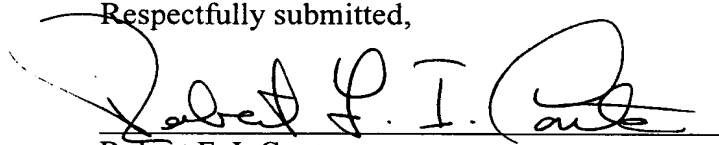
In our invention, due to the elongated shape of our reservoir (4) and our detection cavity (5), respectively, and especially our elongated tracer-permeable wall portions of the reservoir wall (4) and the detection cavity (5), respectively, the diffusion of the tracer out of the reservoir (4) and the diffusion of the tracer into the detection cavity (5) and into the surrounding tissue during use of the sensor take place through considerably larger areas than when using the sensor of Resvbach et al which only uses a permeable membrane at the mouth of their reservoir.

As a result of our invention, it is possible to measure the tissue perfusion over a larger area of the tissue or to obtain measurement of an average tissue perfusion in said area of the tissue.

Therefore, it is respectfully requested that the 35 U.S.C. 102(b) rejection be withdrawn and that claims 7 -11 and 13 -16 be allowed.

It is submitted that claims 7 - 11, 13 - 16, and 27 - 31 patently distinguish over the Revsback et al 97/46853 reference and are now in condition for allowance and an early Notice of Allowance is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. I. Conte", is written over a horizontal line.

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